

PRE-APPEAL BRIEF REQUEST FOR REVIEW		Docket Number (Optional) 60158-286 PUS1	
I hereby certify that this correspondence is being deposited with the United States Postal Service with sufficient postage as first class mail in an envelope addressed to "Mail Stop AF, Commissioner for Patents, P.O. Box 1450, Alexandria, VA 22313-1450" [37 CFR 1.8(a)] on _____ Signature _____ Typed or printed name _____	Application Number 10/584033		Filed 05/01/2007
	First Named Inventor Jerry L. Holden		
	Art Unit 3725		Examiner Yusuf, Mohammad I.
Applicant requests review of the final rejection in the above-identified application. No amendments are being filed with this request. This request is being filed with a notice of appeal. The review is requested for the reason(s) stated on the attached sheet(s). Note: No more than five (5) pages may be provided. I am the <div style="display: flex; justify-content: space-between;"> <div style="width: 45%;"> <input type="checkbox"/> applicant/inventor. <input type="checkbox"/> assignee of record of the entire interest. See 37 CFR 3.71. Statement under 37 CFR 3.73(b) is enclosed. (Form PTO/SB/96) <input checked="" type="checkbox"/> attorney or agent of record. Registration number <u>45864</u>. <input type="checkbox"/> attorney or agent acting under 37 CFR 1.34. Registration number if acting under 37 CFR 1.34 _____ </div> <div style="width: 45%;"> <u>/Karin H. Butchko/</u> _____ Signature <u>Karin H. Butchko</u> _____ Typed or printed name <u>248-988-8688</u> _____ Telephone number <u>December 20, 2011</u> _____ Date </div> </div>			

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IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

Applicant: Jerry L. Holden
Serial No.: 10/584,033
Filed: 05/01/2007
Group Art Unit: 3725
Examiner: Yusuf, Mohammad I.
Confirmation No.: 6905
Title: INDENTED TUBE FOR A HEAT EXCHANGER

Commissioner for Patents
P.O. Box 1450
Alexandria VA 22313-1450

PRE-APPEAL BRIEF REQUEST FOR REVIEW

Dear Commissioner:

In response to the Final Office Action mailed September 22, 2011, Applicant respectfully submits a pre-appeal brief request for review. This request is filed with a Notice of Appeal. As will be explained in further detail, the review is requested for the reasons set forth below.

- I. Background on Examiner's interpretation
- II. Claims 1-2, 5, 7, 9 and 20 were improperly rejected under 35 U.S.C. 102(b) as being anticipated by Hull et al. (US 4574610).
- III. Claims 21-23 were improperly rejected under 35 U.S.C. 102(b) as being anticipated by Takahashi et al. (US 4715436).

ARGUMENTS

I. Background on Examiner's interpretation

The claims relate to a method of forming a tube including the steps of positioning a tube in a first stationary position relative to a mold, where an entirety of the mold is located outside of

the tube, and forming an indentation on the tube with the mold. The method also includes the steps of releasing the mold from the tube and moving the tube to a second stationary position relative to the mold. The step of forming and releasing occur after the step of positioning the tube in the first stationary position, and the step of moving occurs after the step of releasing.

The Examiner states that the claims are anticipated by Hull et al. and Takahashi et al.

REMARKS

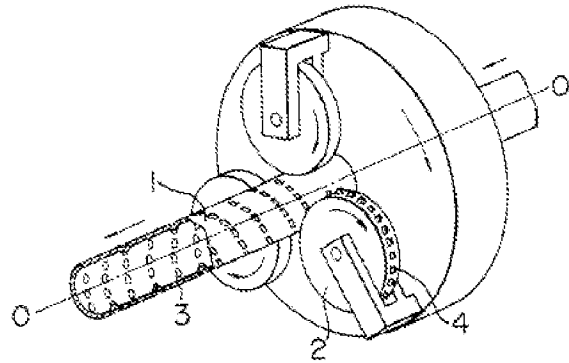
II. Rejection of Claims 1-2, 5, 7, 9 and 20 as being anticipated Hull et al.

Claims 1-2, 5, 7, 9 and 20 are rejected under 35 U.S.C. 102(b) as being anticipated by Hull et al. (US 4574610). Hull does not disclose the step of moving includes rotating and axially translating the tube relative to the mold. In Hull, a crimper unit 35 forms crimps on a condenser tube 25. The condenser tube 25 can be shifted laterally. However, the condenser tube 25 does not rotate and axially translate, but only axially translates.

III. Rejection of Claims 21-23 as being anticipated by Takahashi et al. (US 4715436).

Claims 21-23 are rejected under 35 U.S.C. 102(b) as being anticipated by Takahashi et al. (US 4715436). Claim 21 recites the step of axially translating a tube from a first position to a second position relative to a mold, and a step of rolling the tube occurs during the step of axially translating the tube such that the roller continually engages the tube during the step of axially translating the tube. In Takahashi et al., the teeth 4 do not continually engage the tube 1, as further shown in Figure 1a, below. The Examiner says that the collection of teeth 4 continually engage the tube 1. However, the claim is reciting a roller, that continually engages a tube, not rollers. Each tooth 4 of Takahashi et al. does not continually engage the tube 1, but instead lifts from the tube 1 between each engagement with the tube.

FIG. 1a



CLOSING

For the above reasons, the rejection of the claims should be reversed. Applicant believes that no additional fees are necessary; however, the Commissioner is authorized to charge to Deposit Account No. 50-1482, in the name of Carlson, Gaskey & Olds, P.C., for any additional fees or credit any overpayment.

Respectfully Submitted,

CARLSON, GASKEY & OLDS, P.C.

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